

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

MARQUIS TILMAN,)
)
 Plaintiff,)
)
 VS.) NO.2:20-CV-10-KS-MTP
)
 CLARKE COUNTY, et al,)
)
 Defendant.)

DEPOSITION

OF

BENJAMIN IVY

SEPTEMBER 30, 2021

ALPHA REPORTING CORPORATION
236 Adams Avenue
Memphis, TN 38103
901-523-8974
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1 The deposition of BENJAMIN IVY, taken on
2 this, the 30th day of September 2021, on behalf of
3 the Plaintiff, pursuant to notice and consent of
4 counsel, beginning at approximately 11:45 a.m. via
5 Zoom video conference.

6 This deposition is taken pursuant to the
7 terms and provisions of the Federal Rules of Civil
8 Procedure.

9 All forms and formalities, excluding the
10 signature of the witness, are waived, and objections
11 alone as to matters of competency, relevancy and
12 immateriality of the testimony are reserved to be
13 presented and disposed of at or before the hearing.

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A P P E A R A N C E S

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1 BENJAMIN IVY,
2 having first been duly sworn, was examined and
3 testified as follows:
4

EXAMINATION

5
6 BY MR. MOORE:

7 Q. Mr. Ivy, my name is Carlos Moore. I have
8 the pleasure of representing Marquis Tilman in this
9 lawsuit that's been filed against you and several
10 others in Clarke County. I will be asking you
11 questions on his behalf.

12 Have you ever given a deposition before?

13 A. No, sir.

14 Q. Let me give you the ground rules for the
15 deposition. Continue to answer verbally so Andrea
16 can get everything down correctly.

17 A. Yes, sir.

18 Q. If you need to take a break let me know and
19 I'll allow you to take a break. However, if there's
20 a pending question I ask that you answer that
21 question before taking any break. Okay?

22 A. Yes, sir.

23 Q. I have a tendency to talk fast. If you need
24 me to repeat or rephrase the question please advise
25 me of the same and I will accommodate your request.

1 However, if you answer the question I will assume
2 you understood the question. Is that fair?

3 A. Yes, sir.

4 Q. Finally, let's agree not to talk over each
5 other. I'm not going to talk over you and I will
6 expect you to not talk over me. Okay?

7 A. Yes, sir.

8 Q. State your name.

9 A. Frank Benjamin Ivy, Jr.

10 Q. Have you ever gone by any other name or
11 alias?

12 A. I'm commonly called Ben, short for Benjamin.

13 Q. Okay. What is your address?

14 A. [REDACTED]. That's Quitman,
15 Mississippi 39355.

16 Q. What county is that?

17 A. Clarke County.

18 Q. What is your phone number?

19 A. Area code [REDACTED].

20 Q. Who resides at your address with you?

21 A. My wife and children.

22 Q. Your wife's name?

23 A. Alison Brook Ivy.

24 Q. How long have y'all been married?

25 A. January will be 15 years. So a little over

1 14 and a half years.

2 Q. Any prior marriages?

3 A. No, sir.

4 Q. Any adult children?

5 A. No, sir.

6 Q. Do you have any other relatives in Clarke
7 County or surrounding counties?

8 A. I do.

9 Q. Do you have any relation to -- (inaudible)
10 -- start with your parents.

11 A. My dad is deceased, he passed away in 2003.
12 My mother is still living, her name is Pamela
13 Benton, B-E-N-T-O-N.

14 Q. All right. Has she remarried?

15 A. Yes, sir, she has.

16 Q. Who is she married to now?

17 A. George Benton.

18 Q. Okay. Where do they reside?

19 A. [REDACTED], Quitman, Mississippi.
20 That's in Clarke County.

21 Q. Let's go through your siblings. Brothers
22 and sisters?

23 A. I have one sister.

24 Q. Her name is?

25 A. Brandy Plamondon, P-L-A-M-O-N-D-O-N. Her

1 husband is Filipino. That's where the last name
2 comes from.

3 Q. Brandy Plamondon?

4 A. Plamondon.

5 Q. What's the husband's name?

6 A. Jason Plamondon.

7 Q. Okay. And no brothers?

8 A. No brothers.

9 Q. All right. Any grandparents?

10 A. I have one grandparent living and that would
11 be my dad's mother. Her name is Wybonne,
12 W-Y-B-O-N-N-E.

13 Q. Okay. She lives in Quitman, Mississippi in
14 Clarke County. Her last name?

15 A. Ivy.

16 Q. All right. Any adult nieces and nephews?

17 A. None.

18 Q. Okay. Your wife's family, are they from
19 that area?

20 A. Yes, sir.

21 Q. All right. Start with your parents-in-law.

22 A. My father-in-law is Robert Williams and he
23 is from Quitman in Clarke County.

24 Q. Okay.

25 A. My mother-in-law's name is Sandra Williams

1 also from Quitman inside of Clarke County.

2 Q. Okay. Where does the Brook come from?

3 A. My wife's name?

4 Q. Yes.

5 A. Her middle name is Brook, B-R-O-O-K. That's
6 what we call her.

7 Q. Alison Brook. She was a Williams before she
8 became an Ivy?

9 A. Her middle name is Brook. Her first name is
10 Alison and her middle name is Brook. Her last name
11 is Ivy. Her maiden name is Alison Brook Williams.

12 Q. Does she have brothers and sisters?

13 A. She has one sister.

14 Q. What is her name?

15 A. Bethany Jones is her married name. She
16 lives in Waynesboro, Mississippi which is inside of
17 Wayne County.

18 Q. Okay. What is her husband's name?

19 A. Matt Jones.

20 Q. All right. I think I have the family tree
21 now.

22 Have you ever been arrested?

23 A. I have.

24 Q. Tell me about that.

25 A. When I was 18 years old I was stationary at

1 a stop sign in Meridian, Mississippi. I had a
2 juvenile skateboard down a driveway and hit the side
3 of my truck. So his parents come out and told me,
4 you know, he's fine, you're good to go. I go two
5 houses down to my cousin's house. About an hour
6 later the police show up, knock on the door because
7 the parents had called me in for a hit and run.

8 So physically I wasn't restrained. They allowed
9 me to drive myself to the police department because
10 the parents of the juvenile signed an affidavit
11 against me for leaving the scene of an accident.
12 But it was thrown out in city court when I went in
13 front of the city court judge.

14 Q. Have you ever been convicted of anything?

15 A. No, sir. Other than, like, speeding
16 tickets, you know, traffic violations when I was
17 younger.

18 Q. So no criminal conviction besides traffic
19 violations.

20 What's your date of birth?

21 A. [REDACTED].

22 Q. How old are you?

23 A. 39.

24 Q. Have you ever been accused of excessive
25 force?

1 A. Yes.

2 Q. Tell me about each occasion.

3 A. It was once in Meridian Police Department.
4 In 2012 I effected an arrest on a subject for
5 stealing a car. He threatened to head butt me and
6 bite me in the face and he ran at me and I pushed
7 him away to create distance.

8 At the time we had a new administration, a new
9 mayor and a new police chief and the police chief we
10 had was not a certified police officer, never had
11 formal civilian police training and at first he
12 recommended termination for excessive force due to
13 the fact that I pushed this guy while he was
14 restrained in handcuffs. So I hired legal counsel
15 and got it reduced -- well, he changed his mind to I
16 believe it was a 30 working day suspension.

17 Now, by the time we went from his recommendation
18 of termination to a suspension I had already found
19 another full-time job. So I didn't fight the
20 suspension. I just let it go and went to work
21 full-time somewhere else.

22 Q. You got a 30-day suspension?

23 A. Yes, sir. And the suspect ultimately signed
24 an affidavit against me for simple assault and we
25 went to a probable cause hearing in front of a

1 circuit court judge and he threw it out saying that
2 the amount of force used was not excessive.

3 Q. Was the victim black or white?

4 A. Black.

5 Q. What was that black victim's name?

6 A. I could not tell you his name. I can tell
7 you his nickname but I don't know his real name.

8 Q. Give me his nickname.

9 A. Ray Ray.

10 Q. How many Ray Rays are there in Meridian?

11 A. I would not know. I know my daughter's
12 nickname is Ray Ray because her full name is
13 [REDACTED]. That's what we call her, too.

14 Q. All right. Black male victim in Meridian,
15 30-day suspension, chief recommended termination.
16 What was the chief's name at the time?

17 A. James Reed.

18 Q. James Reed?

19 A. Yes, sir. He was ultimately terminated just
20 a month or so after that due to his not being
21 certified or having any formal police training.

22 Q. When you pushed this guy that was handcuffed
23 --

24 A. I created a space, created distance which I
25 was taught in the police academy.

1 Q. You knew it was wrong to push a guy in
2 handcuffs, didn't you?

3 A. It was not wrong.

4 Q. Mr. Ivy, you received a 30-day suspension
5 for something that was not wrong?

6 A. I accepted the 30-day suspension due to the
7 fact that I didn't fight it because I had already
8 been employed somewhere else.

9 Q. Did you get a regular high school diploma?

10 A. I did.

11 Q. What high school was that?

12 A. Quitman High School.

13 Q. Were you in regular classes or special ed
14 classes?

15 A. Regular.

16 Q. You didn't get a certificate of completion,
17 you got a high school diploma?

18 A. High school diploma.

19 Q. What year?

20 A. 2000.

21 Q. You're telling me you still understand that
22 you got a 30-day suspension because you did
23 something wrong?

24 A. I got a 30-day suspension due to the fact I
25 didn't keep my legal counsel and offer rebuttal. I

1 accepted it and moved on because I was already
2 employed somewhere else.

3 Q. You accepted it because you knew they caught
4 you?

5 A. I accepted it due to the fact I was already
6 employed and I didn't feel like dealing with it.

7 Q. You knew it was wrong to push somebody in
8 handcuffs, didn't you?

9 A. No. It was not wrong. Matter of fact, the
10 use of force expert testified at the probable cause
11 hearing and he testified to the fact I could have
12 used more force.

13 Q. Have you ever done a white person like that
14 in handcuffs?

15 A. I would have to think back. You know, I've
16 been a police officer almost 17 years. I've dealt
17 with a lot of people. And I have, you know,
18 probably tried to be assaulted by a restrained white
19 person. I've dealt with some rough white
20 individuals.

21 Q. My question was have you ever did similar
22 things to a white person in handcuffs?

23 A. I would have to think over the last 16 and a
24 half years of experience to properly answer that.

25 Q. I will allow you to think. Go ahead. Start

1 thinking.

2 A. I had to struggle with a white male at the
3 Lauderdale County Jail because he -- I had arrested
4 him for stealing a case of Budweiser and he
5 continually called me the "N" word because he was a
6 member of the Aryan brotherhood and when he got out
7 of the car he attempted to bump his chest against me
8 and head butt me. So I had to -- (inaudible) -- he
9 was a white male.

10 Q. Was he in handcuffs?

11 A. Yes, sir.

12 Q. Did you push him?

13 A. Pushed him off of me.

14 Q. He was trying to assault you, correct?

15 A. Yes, sir.

16 Q. I'm going to similar incidents to the black
17 guy who had not assaulted you that you pushed him
18 while he was in handcuffs.

19 A. He tried to head butt me.

20 Q. He tried to head butt you? How do you try
21 to head butt somebody?

22 A. He ran at me and tried to head butt me.
23 That's why I pushed him.

24 Q. And you got a 30-day suspension and that was
25 inappropriate?

1 A. Yes.

2 Q. Why didn't you move out of the way? You
3 could have moved out of the way, correct?

4 A. I was -- actually, my patrol car was behind
5 me. So if I went backwards if I would have landed
6 on the hood of my patrol.

7 Q. That would have been better than pushing a
8 man in handcuffs, correct?

9 A. No, sir because then he would have been on
10 top of me.

11 Q. So you're telling me you had a
12 recommendation for termination and then a 30-day
13 suspension and you did nothing wrong?

14 A. That's correct.

15 Q. You had probable cause according to Meridian
16 Police Department?

17 A. According to the circuit court judge, I did.

18 Q. According to the City of Meridian had you --

19 A. Well, the representative at the time was not
20 a term rank police officer. So I didn't have a
21 proper representation of a decent chief of police.
22 He was an untrained individual.

23 Q. Was he black or white?

24 A. Black.

25 Q. Okay. So you have a problem with black

1 people, don't you?

2 A. Not at all.

3 Q. You don't?

4 A. No, sir.

5 Q. Have you ever been a member of any racially
6 exclusive group?

7 A. No.

8 Q. Clan maybe?

9 A. Never.

10 Q. Have they ever invited you to membership?

11 A. No, sir.

12 Q. Have you ever said the "N" word?

13 A. Never.

14 Q. You have never said the "N" word?

15 A. Never.

16 Q. I need a yes or no. Have you ever said the
17 "N" word?

18 A. No.

19 Q. There's a witness that says otherwise.

20 Would you dispute that?

21 A. Yes, sir.

22 Q. Do black lives matter?

23 A. Yes, sir.

24 Q. How so?

25 A. Black people are human beings. They have

1 beautiful souls and beautiful hearts. I look at --
2 I look at hearts and people's personalities and
3 there are a lot of good people of all colors and
4 black people do matter absolutely.

5 Q. Do you have any black friends?

6 A. I do.

7 Q. How many?

8 A. Several.

9 Q. Give me some of their names?

10 A. Dwight Malone, Exel Jackson, Tony Laten,
11 Latrice Roberts, Lakeith Jones, John Edwards,
12 Michael Lockhart.

13 Q. Anymore?

14 A. There's more, yes, sir.

15 Q. Got anymore?

16 A. Several. I have several black friends. I
17 have all my life.

18 Q. You have?

19 A. Yes, sir.

20 Q. Where does Dwight Malone work?

21 A. Georgia Pacific.

22 Q. Exel Jackson?

23 A. He works for Auto Trends in Meridian,
24 Mississippi.

25 Q. Tony Laten?

1 A. I don't know where Tony is working at now.
2 He's probably retired. Him and I used to work
3 together at Southwood Doors which is a machine shop,
4 used to be in Quitman. He lives in Jasper County.

5 Q. Latrice?

6 A. She works at Quitman building supply in
7 Quitman, Mississippi.

8 Q. Lakeith?

9 A. Pardon me.

10 Q. Lakeith?

11 A. I don't know where Lakeith is working. The
12 last time I had contact with Lakeith was roughly six
13 months to a year wag ago and he was working at a
14 fast food place. Lakeith Jones was roughly 12 or 13
15 years old when I basically -- I basically took him
16 in and helped raise him.

17 Q. John Edwards?

18 A. Georgia Pacific in Pennington, Alabama.

19 Q. Lockhart?

20 A. Unfortunately, Michael Lockhart was murdered
21 over a month ago over in Alabama, Choctaw County.

22 Q. Why do you list him as one of your black
23 friends if he already passed?

24 A. Because he just recently passed and him and
25 I hung out outside of work. He was a very good

1 friend of mine.

2 Q. I was not asking about past friends. I was
3 asking about current black friends.

4 MS. MALONE: I am going to object. You did
5 not specify whether he needed to list every single
6 black person he ever had any contact with or whether
7 he needed to only list living people or deceased
8 folks.

9 BY MR. MOORE:

10 Q. For the record, when I asked you about
11 friends, if I don't say past friends I'm talking
12 about current friends.

13 A. Yes, sir.

14 Q. If you would be so kind as to always
15 distinguish between living and dead going forward I
16 would appreciate it.

17 A. Yes, sir.

18 Q. You do not have conversations with dead
19 people, do you?

20 A. Pardon me?

21 Q. You do not have current conversations with
22 dead people, do you?

23 A. No, I don't. I don't talk to the deceased.
24 I pray a little bit, try to send a message to my
25 dad. I don't know if it gets there or not.

1 Q. So you could not maintain a relationship
2 with someone after they're deceased?

3 A. Unfortunately you cannot because Michael was
4 a really good friend.

5 Q. May his soul rest in peace and may his
6 memory be a blessing.

7 A. Right.

8 Q. Any other black people you raised or help
9 raised?

10 A. Lakeith Jones is the only one that I kind of
11 took in and helped.

12 Q. How did you take him in? Took him in your
13 home?

14 A. I did.

15 Q. Gave him a place to stay?

16 A. I did part-time, not full-time. Because,
17 you know, his mom had an apartment in Meridian but
18 he would always want to come stay with me because
19 the home environment wasn't great and I took him in,
20 help him do homework, bought him food.

21 Q. How many nights did he stay in your home?

22 A. A total, the whole time, probably more than
23 50.

24 Q. Over what time span?

25 A. I met him when he was roughly 12 to 13 years

1 old up until when he started college at 18.

2 Q. So it was six years and you call yourself
3 taking him in and he's only spent 50 nights --
4 approximately 50 nights there?

5 A. Roughly. Yes. He typically would come on
6 the weekend on Friday afternoon and I would take him
7 back home either Sunday night before he had to go
8 school.

9 Q. And you call that helping raise somebody and
10 taking them in, over six years, 50 nights?

11 A. I absolutely helped him out. There were
12 several times he needed food or needed clothes for
13 school, needed money.

14 Q. Are you patting yourself on the back?

15 A. No, sir.

16 Q. Do you exaggerate, Mr. Ivy?

17 A. No, sir.

18 Q. Do you have any military experience?

19 A. No, sir.

20 Q. Any other accusation of excessive force
21 besides the one Mr. Tilman made against you and then
22 the other black person that you pushed while he was
23 in handcuffs?

24 A. I was named in a lawsuit roughly around 2006
25 or 2007-ish where a different police officer got

1 into a physical altercation with someone but I was
2 not physically there for that altercation. They
3 also named a police officer that was on vacation for
4 that shift as well.

5 Q. All right. Give me the name of the
6 plaintiff or the attorney or both.

7 A. The plaintiff, his name was Tyrone Holiday
8 but I don't remember his attorney's name.

9 Q. All right. Was he successful in that
10 lawsuit?

11 A. No, sir.

12 Q. Okay. That was filed in which county?

13 A. Lauderdale.

14 Q. Do you consider yourself a redneck?

15 A. What is your definition of redneck? We may
16 have a difference of opinion on that. I don't know.

17 Q. I don't answer the questions. I only ask
18 them. Do you consider yourself a redneck?

19 A. No, I do not.

20 Q. Has anyone ever called you a redneck?

21 A. Yes, sir.

22 Q. Did you correct them?

23 A. Typically if someone calls me anything like
24 that I typically don't respond.

25 Q. But sometimes you do?

1 A. Most of the time I don't. I think it's best
2 just to -- if you're not -- especially if you're
3 trying to effect an arrest or dealing with somebody
4 you're going to have to carry to jail, it's best not
5 to respond to verbiage like that.

6 Q. How many times have you been called a
7 redneck?

8 A. I couldn't even begin to tell you.

9 Q. Have you been called redneck by other white
10 people?

11 A. Let me think on that before I answer. It's
12 possible that maybe somebody called me that jokingly
13 or maliciously, you know, on duty or off. You know,
14 I don't know. I don't know exactly what a redneck
15 is. I don't know what qualification one would need
16 to be a redneck, you know. Other than a physically
17 red neck, you know, I could -- I could describe that
18 to you but I don't -- I don't understand the
19 qualifications for being a redneck.

20 Q. Do you dip snuff?

21 A. I don't.

22 Q. Have you ever dipped snuff?

23 A. I have.

24 Q. Do you chew tobacco?

25 A. I never have chewed tobacco.

1 Q. But you have dipped snuff?

2 A. I have dipped snuff, probably around 2003 or
3 2004 but that's been many moons ago.

4 Q. You ever drank any moonshine?

5 A. I have not. I heard that stuff will hurt
6 you.

7 Q. Do you drink alcohol at all?

8 A. Occasionally I will.

9 Q. What's your beverage of choice?

10 A. If I go and buy alcohol I will buy, like,
11 Michelob Ultra or Corona, Dos Equis, you know.

12 Q. Okay. Have you ever been called Bubba
13 before?

14 A. I've never been called Bubba. I had a
15 friend named Bubba that died in a vehicle crash
16 though.

17 Q. Sorry to hear that. There's been a lot of
18 death around you. I'm sorry to hear that.

19 A. Thank you. My cousin took his own life
20 about the same time my friend Michael was murdered.

21 Q. I hope things get better.

22 A. Thank you.

23 Q. Did you know Marquis Tilman prior to
24 3/21/19?

25 A. I don't think I had ever personally met

1 Mr. Tilman before that day.

2 Q. All right. After you left high school --
3 you told me you got a regular high school diploma in
4 2000. Give me the benefit of all your jobs since
5 then.

6 A. I was hired by Meridian Police Department
7 June 25th, 2003.

8 Q. (Inaudible question)

9 A. Well, I was 18 years old when I graduated
10 high school and you've got to be 21 to be a police
11 officer. I got emancipated a month before I was 21
12 so I could be -- two months before I was 21 so I
13 could be hired with them.

14 Q. Okay.

15 A. But I went to college in between high school
16 and Meridian Police Department.

17 Q. Which college did you go to?

18 A. The first one was Meridian Community
19 College.

20 Q. Okay.

21 A. The second one was Jones County Junior
22 College.

23 Q. Did you get a degree from either one?

24 A. No, sir. My dad passed away in my third
25 semester at Jones and one of my dad's friend was a

1 police captain with Meridian Police Department and I
2 saw him at my dad's funeral and he told me they were
3 about to take applications. So I went and applied I
4 got a job and never finished my last semester.

5 Q. What were you majoring in?

6 A. Criminal justice at Jones. At Meridian
7 Community College it was marketing management.

8 Q. Okay. Was your daddy in law enforcement?

9 A. No, sir.

10 Q. All right. So you started with Meridian
11 Police Department in 2003. How long did you stay
12 there?

13 A. My official last day was January of 2013.

14 Q. With them almost 10 years?

15 A. Yes, sir.

16 Q. Where did you go next?

17 A. Clarke County Sheriff's Department.

18 Q. Why did you leave Meridian --

19 A. Because I seen how easily an untrained
20 police chief can take -- (inaudible) --

21 Q. So the incident happened in 2013 where you
22 pushed the guy?

23 A. 2012.

24 Q. And shortly thereafter you resigned?

25 A. Yes, sir.

1 Q. You resigned while suspended?

2 A. No, sir. I completed the suspension and
3 then turned in my two-weeks notice of resignation.

4 Q. Okay. Had you ever been disciplined any
5 other time with Meridian Police Department besides
6 that 30-day suspension?

7 A. No, sir.

8 Q. Did they tell you that if you did not resign
9 they were going to fire you?

10 A. No, sir.

11 Q. Okay. You went to Clarke County Sheriff's
12 Department in what year?

13 A. 2013, January.

14 Q. January. How long you did you stay with
15 them?

16 A. Until October -- I believe October 19th of
17 2019.

18 Q. Why did you leave October 19 of '19?

19 A. I was burned out in law enforcement and I
20 had a job offer with a civilian company, had a much
21 higher pay rate.

22 Q. That's where you're working now?

23 A. I have come back to law enforcement. I'm
24 currently employed through the Wayne County
25 Sheriff's Department.

1 Q. How long were you burned out?

2 A. I took a job with Georgia Pacific at
3 Pennington Paper Mill as a technician and I worked
4 there from October of 2019 until March -- no --
5 April of '21.

6 Q. Then April of 2021 you went where?

7 A. May 1st of '21 I started with Wayne County
8 Sheriff's Department.

9 Q. How far is Wayne County from Clarke County?

10 A. Roughly 25 to 30 miles from my house to the
11 sheriff's house.

12 Q. What do you do?

13 A. Patrol deputy, answer calls, observe
14 traffic, offer backup to other deputies, serve
15 papers, execute warrants.

16 Q. Were you ever disciplined during your time
17 with Clarke County Sheriff's Department?

18 A. No.

19 Q. Were you ever counseled?

20 A. No.

21 Q. Admonished?

22 A. Pardon me?

23 Q. Admonished?

24 A. I don't understand what that means.

25 Q. Were you ever reprimanded?

1 A. No, sir.

2 Q. So you want the jury to believe that you
3 just all of a sudden got burned out a few months
4 after you beat Mr. Tilman?

5 A. I didn't beat Mr. Tilman.

6 Q. A few months after March 21st, 2019, a few
7 months after the incident with Mr. Tilman you all of
8 a sudden left law enforcement and call yourself
9 being burned out?

10 A. Yes.

11 Q. You say you left because you made much more
12 money but yet you only stayed there less than two
13 years and landed back in law enforcement, correct?

14 A. Yes. I missed it.

15 Q. Why did you leave Georgia Pacific?

16 A. Because I missed law enforcement. They
17 treat their employees pretty bad and I wasn't home
18 that much, my home life was being affected by the
19 amount of hours I was working with Georgia Pacific.

20 The way they work, it's like a union job. So
21 like if a piece of equipment goes down, they put us
22 on double coverage which is working every day with
23 no off days. And when that piece of equipment is
24 fixed and back running you go back to your regular
25 shift and you don't get off time. So there was

1 several times I worked 14 in a row, 17 in a row, 21
2 in a row.

3 It was an hour drive one way for me. I had to
4 get up at 4:00 in the morning and I wouldn't get
5 home until after 7:00. Then on the union job, if
6 your relief don't show up -- let's say I'm scheduled
7 to be off at 6:00 p.m. and my relief don't show up,
8 I then have to work until 10:00 p.m. So my home
9 live was greatly affected.

10 Q. Okay. Let's take a -- you said your home
11 life was greatly affected. But you were making way
12 more money than you had ever made?

13 A. Yes.

14 Q. And you couldn't tough it out for your
15 family?

16 A. Well, one of the reasons I come back to law
17 enforcement was my wife, she asked me to come back.

18 Q. At a lower rate of pay?

19 A. Yes. We're financially smart. We don't --
20 we don't out live our means. I mean, I have been on
21 law enforcement salary for, you know, over 16 and a
22 half years and when I went to Georgia Pacific I
23 stayed on a law enforcement budget if you would. I
24 didn't go out and buy a bunch of things and create
25 debt. So the extra money I made at Georgia Pacific

1 was just to the good if you would. So when I come
2 back I just basically picked up where I left off and
3 my finances are the same.

4 Q. Did you make double, triple at Georgia
5 Pacific than you do in law enforcement?

6 A. I was hired in at \$25 an hour and when I was
7 quit I was making \$26.50 an hour.

8 Q. What are you making at Wayne County?

9 A. \$16 an hour. So roughly I lost a little
10 over \$10 an hour.

11 Q. What was your rate of pay when you left
12 Clarke County?

13 A. \$18.90.

14 Q. Why didn't you go back to Clarke County?

15 A. There wasn't an available position.

16 Q. Now you're doing worse than you were doing
17 at Clarke County and Georgia Pacific?

18 A. Monetarily I'm doing worse but my home life
19 is better and I am able to spend more time with my
20 children.

21 Q. How many children do you have?

22 A. Two.

23 Q. What are their ages?

24 A. 11 and 14.

25 MR. MOORE: Okay. Let's take a five-minute

1 break and we will come back for the second half.

2 (SHORT BREAK)

3 BY MR. MOORE:

4 Q. You are still under oath, Agent Ivy. I'm
5 going to turn your attention to March 21st, 2019.
6 Did you do a report concerning anything that
7 happened that day?

8 A. I typed a statement.

9 Q. Who asked you to type the statement?

10 A. No one.

11 Q. Have you reviewed that statement lately?

12 A. I read over it, yes, sir.

13 Q. Who asked you to review it?

14 A. No one.

15 Q. All right. I'm going to show you the second
16 page of the statement that's signed. Can you see
17 that signature?

18 A. Yes, sir.

19 Q. Is that your signature?

20 A. Yes, sir.

21 Q. I am going to make Major Ivy's statement
22 Exhibit 1 to his deposition.

23 (WHEREUPON, THE ABOVE-REFERENCED DOCUMENT WAS
24 MARKED AS EXHIBIT NO. 1 TO THE DEPOSITION AND WAS
25 RETAINED BY COUNSEL.)

1 BY MR. MOORE:

2 Q. In your own words tell me what transpired
3 between you and Marquis Tilman and others with the
4 sheriff's department on March 21st, 2019.

5 A. I received an anonymous call from a phone
6 number listed in my statement and it sounded like a
7 female and she said that --

8 Q. Black female? White female?

9 A. I couldn't tell.

10 Q. Okay.

11 A. She said that Marquis Tilman had a firearm
12 and had a warrant through the U.S. Marshals and he's
13 riding around Quitman. I asked her to identify
14 herself, who is this? Basically, who is this? How
15 did you get my number? She said I can't tell you
16 who I am in fear of -- basically in fear of
17 repercussion. I said I'll see if I can ride
18 around and see -- she gave me a physical description
19 of the vehicle. I said I'll see if I could ride
20 around and locate Mr. Tilman.

21 So I saw the car first over in the general area
22 of the Chevron, the Sunflower grocery store but he
23 was traveling eastbound and I was traveling west.
24 And I pulled into the parking lot of the Sunflower
25 so I could observe him better and he parked at the

1 Chevron and went inside. And I was stationary at
2 Sunflower, which is across the intersection. So
3 when he left Chevron I pulled out as well. There
4 was too many cars in between us, so I lost him.

5 At that point I called my narcotic partner,
6 Agent Justin Ross and I said look, I just got this
7 anonymous call saying Marquis Tilman is in
8 possession of a firearm, possibly got warrants
9 through the U.S Marshals and told him basically what
10 I learned through this anonymous call. Well,
11 shortly after I called him the person calls back,
12 same phone number.

13 Q. Did you trace the number?

14 A. No. I put it in my statement to give to the
15 investigator, criminal investigator that would
16 investigate this case.

17 Q. Okay.

18 A. So they called me back and told me he's in
19 town riding around, I just saw him. So I went
20 northbound and I saw him again and he wasn't wearing
21 his seatbelt and I attempted to effect a traffic
22 stop using my blue light.

23 Q. For failure to wear a seat belt?

24 A. Yes, sir.

25 Q. How did you know it was Marquis Tilman? If

1 you had never seen him before how did you know it
2 was him?

3 A. Because it was the same description of the
4 vehicle they had given me that I located over there
5 by the Chevron.

6 Q. Did she describe his physical characteristic
7 or just describe the car he was in?

8 A. No. She just told me -- she told me it was
9 a black male. I never had any dealings with Marquis
10 Tilman.

11 Q. All right. Take it from you saw him without
12 a seat belt.

13 A. Yes, sir. So I attempted to effect a
14 traffic stop with my blue lights only and he did not
15 stop and he turned and went westbound by the Shell
16 station on the north side of town, I can't remember
17 the name of that street.

18 And then there's a four-way intersection right
19 behind the Shell station and he actually stopped in
20 the middle of the intersection to talk to somebody
21 in a maroon Expedition. I'm still behind him with
22 my blue lights activated. He had a brief
23 conversation. I don't know what verbiage was
24 exchanged. I didn't get out of my vehicle.

25 And he continued on northbound on the street

1 behind the Shell station and that's when he began to
2 accelerate and that's when I turned on audible
3 sirens and pursued him and I notified dispatch of
4 what was taking place.

5 Q. What happened next?

6 A. So he ended up on North Jackson Avenue
7 northbound. He was traveling at a high rate of
8 speed. He ran -- he ran quite a few cars off the
9 road which I documented over the radio.

10 Q. Let me stop you. Why would you go on a high
11 speed choice if somebody is suspected of not having
12 on a seat belt?

13 A. Due to the fact that the anonymous caller
14 told me he was in possession of a firearm and --

15 Q. Isn't it a second amendment right to bear
16 firearms?

17 A. Yes, if you're not a convicted felon.

18 Q. Did she tell you he was a convicted felon?

19 A. Yes, sir.

20 Q. Did you check it out? Did you run his name
21 or anything before --

22 A. I advised dispatch, yes.

23 Q. Did dispatch come back and confirm he was a
24 convicted felon before you started chasing him
25 across town?

1 A. No.

2 Q. What why were you chasing him?

3 A. Because he was fleeing. If he wasn't
4 fleeing I wouldn't have to chase him.

5 Q. You don't have to chase after him -- a
6 misdemeanor -- a high speed chase, is that wise to
7 chase a misdemeanor?

8 A. Repeat that.

9 Q. You put several lives in danger of somebody
10 that failed to wear a seat belt -- is somebody
11 talking to you?

12 A. The speaker is to my right. So when I lean
13 over I'm trying to listen to the computer speaker.

14 Q. That's a good one.

15 A. I can turn the camera if you wish.

16 Q. I do want to turn the camera.

17 A. The speaker is coming out right here.

18 Q. Okay.

19 A. Hold on one second.

20 Q. All right. So you went on a high speed
21 chase with someone you had seen without a seat belt,
22 you did not know at that point if he was a felon in
23 possession of a firearm or not, did you?

24 A. That's correct.

25 Q. All right. Did you follow policy or not?

1 A. Yes, sir.

2 Q. What policy did you follow?

3 A. Our pursuit policy.

4 Q. You can pursue somebody on a high speed
5 chase for a misdemeanor?

6 A. Yes, sir.

7 Q. Wow. Can you point me to the page in the
8 policy?

9 A. I would have to request a copy of it and
10 show it you.

11 Q. Okay. That's the way you were trained by
12 the Clarke County Sheriff's Department, to pursue
13 people at a high rate of speed for not having a seat
14 belt on?

15 A. I was trained at the Mississippi Law
16 Enforcement Officers Training Academy.

17 Q. You can put all those people's lives in
18 danger at a high rate of speed over someone not
19 having their seat belt on?

20 A. Say that again.

21 Q. That's the way you were trained, to put
22 lives at danger at a high rate of speed over
23 somebody not having a seat belt on?

24 A. I was trained to apprehend suspects that are
25 putting lives at danger.

1 Q. If you had stopped following him he wouldn't
2 have been speeding, correct?

3 A. I don't know that.

4 Q. Go ahead. You're looking the opposite
5 direction now. Is the speaker on that side?

6 A. I can turn my head and put my ear toward it.
7 And I thought I heard another dog barking.

8 Q. I see your counselor's arm on the other
9 side.

10 MS. MALONE: If you have something you wish
11 to address with me or you are accusing me of some
12 sort of unethical conduct please put it on the
13 record now. I am not instructing this witness in
14 any shape or fashion.

15 MR. MOORE: I didn't say you were. I just
16 said he put his head toward your direction. I was
17 trying to see what was going on. I was simply
18 trying see why he was moving his head that
19 direction. I would never want to believe that
20 Jessica was doing anything improper. That let's
21 keep going.

22 BY MR. MOORE:

23 Q. Keep telling me what was going on that day
24 as you recall it, Mr. Ivy.

25 A. Mr. Tilman proceeded north on North Jackson

1 Avenue and then north on Highway 145 and then north
2 on State Highway 45.

3 Once we got on the four-lane other deputies
4 become involved in the pursuit. I fell back a few
5 cars because their vehicles were faster than mine
6 and I was driving a pick-up truck and the person
7 that took the lead was Joey Molds, which is the
8 chief of police for Enterprise -- (inaudible) --
9 Turner and the Deputy Anthony Chancelor got in front
10 of me as well. So I was probably third to fourth at
11 this point once we got on the highway.

12 And then Mr. Tilman looked like he was about to
13 travel westbound on Highway 514 but instead he went
14 back south on State Highway 45. And then once we
15 got around County Road 344 that's when Deputy
16 Chancelor hit Mr. Tilman and spun him out on the
17 side of the highway. Then I put my front bumper
18 into his driver door to prevent him from leaving the
19 scene or continuing the pursuit.

20 Q. And you ran your vehicle into his vehicle as
21 well?

22 A. It was -- yes. It was a low speed --
23 probably three to five miles an hour maybe.

24 Q. Okay. Who did the pit maneuver?

25 A. Deputy Chancelor is the one that hit him and

1 spun him out.

2 Q. All right. What happened after he was hit
3 and spun out and you ran your vehicle into his
4 vehicle?

5 A. Several deputies exited their vehicle to
6 take Mr. Tilman into custody. I stayed in my truck,
7 backed my truck out of his door, backed my truck up.
8 So when I exited my truck Mr. Tilman was in custody
9 on the ground facedown on the opposite side of the
10 vehicle -- of his vehicle.

11 Q. Was he in handcuffs?

12 A. Yes, sir.

13 Q. Already in handcuffs before you approached
14 him?

15 A. Yes, sir.

16 Q. And once you approached him you started
17 kicking him?

18 A. No. I never had any physical contact with
19 Mr. Tilman.

20 Q. You started stomping him?

21 A. No, sir.

22 Q. Started punching him?

23 A. No, sir.

24 Q. You were angry, weren't you?

25 A. I was not.

1 Q. You had been instructed by the sheriff of
2 Clarke County to beat Mr. Tilman's ass, correct?

3 A. That is correct.

4 Q. And that's what you did?

5 A. That's not what I did.

6 Q. You were instructed to shut him down and you
7 shut him down, didn't you?

8 A. I assisted in stopping the pursuit, yes.

9 Q. And you were instructed to beat his ass?

10 A. I was instructed to beat his ass.

11 Q. And you beat his ass, didn't you?

12 A. I did not beat his ass.

13 Q. Did you see anyone beat his ass?

14 A. No, sir. When they took Mr. Tilman into
15 custody I was still in my vehicle, my patrol truck.

16 Q. So why did Mr. Tilman point you out as the
17 one that beat his ass?

18 A. Apparently he's lying. I never had
19 any physical contact -- I didn't handcuff him,
20 didn't touch him, didn't transport him.

21 Matter of fact, when I exited my truck and saw
22 that he was in custody on the ground and Officer
23 Joey Molds, which is the chief of the police for
24 Enterprise was the one next to him on the ground, I
25 returned to my vehicle so I could begin

1 photographing the vehicle and the firearm in the
2 car.

3 Q. Did you take any photos of Mr. Tilman?

4 A. I don't think I took any photos of
5 Mr. Tilman.

6 Q. Why not? Didn't you want to document how
7 he looked after that beating?

8 A. There was no beating that I know of. I
9 wasn't able to see them take him into custody.

10 Q. All right. Was he out of breath once you
11 arrived?

12 A. I don't know. I didn't have any contact
13 with Mr. Tilman.

14 Q. Did he complain of any shortness of breath?

15 A. If he did, it wasn't to me.

16 Q. All right. Did you see how his face looked
17 once you arrived?

18 A. He was facing down on the ground in custody
19 with Chief Joey Molds next to him. I didn't see his
20 face or anything.

21 Q. Did you hear him complain of pain?

22 A. I did not.

23 Q. Have you ever told a lie?

24 A. Of course. I got many spankings when I was
25 a kid.

1 Q. Have you ever told a lie as an adult?

2 A. No, sir.

3 Q. Have you ever cheated?

4 A. Like on a test or --

5 Q. Cheat, any version.

6 A. In high school I cheated on a history
7 test -- (inaudible) -- I thought she was going to
8 get me good. She was pretty firm.

9 Q. Have you ever cheated as an adult?

10 A. No.

11 Q. Have you ever stolen?

12 A. Look, I accidentally stole when I was a kid.
13 I was with my mamaw Wybonne we talked about earlier.
14 Let me tell you what I done. She was buying
15 groceries. So I seen this bottle of mustard and at
16 the top it said 20 percent free and all I saw was
17 free. So here I go out of the grocery store with a
18 bottle of mustard. My mamaw made me take it back in
19 there and say I stole it on accident.

20 Q. Have you ever stole as an adult?

21 A. No.

22 Q. So you've lied, cheated and stole as a kid
23 but never as an adult?

24 A. Yes, I did.

25 Q. How many jobs have you been terminated from

1 in your life?

2 A. I was fired from Southwood Door Company when
3 I was 19 but I done forgot the name of the monetary
4 benefits you get for wrongful termination but I got
5 those, unemployment.

6 So I got unemployment for a year after Southwood
7 Door Company because I was wrongfully terminated.
8 They terminated me for lack of production at 7:30 in
9 the morning when I started my machine at 7:00. What
10 it was, they found out I was going back to college
11 and they wasn't too happy.

12 Q. So you were eventually --

13 A. I eventually quit and in the next few months
14 returned to college and they didn't like that.

15 Q. All right. So you have been arrested, you
16 have been fired, you have been suspended, you've
17 been recommended for termination, you've lied,
18 you've stolen and you have cheated?

19 A. Yes, sir.

20 Q. You are no saint, are you, Mr. Ivy?

21 A. No, sir, absolutely not. I don't even
22 deserve God's grace. I'm just glad he gives it to
23 me.

24 Q. And you used to dip snuff?

25 A. I did. It didn't last long. I didn't like

1 it. It gets all in your teeth.

2 Q. Do you smoke?

3 A. I do.

4 Q. Bad habit, Mr. Ivy.

5 A. I know.

6 Q. What do you smoke, cigarettes or cigars?

7 A. Cigarettes.

8 Q. How many packs a day?

9 A. Half at the most.

10 Q. How long have you been smoking?

11 A. I actually quit for about two years when I
12 was about -- about seven years. I know. My wife
13 gets on to me all the time.

14 Q. Have you apologized to any of the black men
15 you have assaulted on the job unlawfully or
16 improperly?

17 A. I have never assaulted anyone unlawfully or
18 improperly.

19 Q. Including the black men you got suspended 30
20 days for pushing while he was in handcuffs?

21 A. That's correct.

22 Q. You never apologized to him?

23 A. There was nothing to apologize for.

24 Q. You don't feel like you did anything wrong?

25 A. That's correct.

1 Q. Do you ever recognize the error of your
2 ways, Mr. Ivy?

3 A. If I'm in the wrong I do. You can ask my
4 wife. Lord have mercy. I got two daughters, too.
5 So I live with three women. I'm out numbered. They
6 remind me every day if I make a mistake.

7 Q. So this black man's life didn't matter
8 enough for you to apologize for pushing him in
9 handcuffs?

10 A. The amount of force I used was completely
11 justified and it was reactive to his aggressive
12 actions. So I didn't have anything to apologize
13 for.

14 Q. You're going to the grave believing that?

15 A. I'm going to my grave knowing that.

16 Q. You're under oath but you got a 30-day
17 suspension on your record?

18 A. That's right.

19 Q. Have you ever heard the term stuck on
20 stupid?

21 A. I have.

22 Q. What does that mean?

23 A. It means you're -- to me stupid means that
24 you know better and you do it anyway. If you're
25 stuck on stupid you can't get out of that rut.

1 Q. To do better you must first recognize that
2 you have done wrong, correct?

3 A. That's correct.

4 Q. And if you don't recognize what you're doing
5 is wrong, you don't get a chance to do it correct?

6 A. Correct.

7 Q. When are you going to long learn you cannot
8 go around assaulting people in handcuffs?

9 A. I've never assaulted anybody in handcuffs.

10 Q. Mr. Tilman says you did.

11 A. I say I didn't. I didn't have any physical
12 contact with Mr. Tilman. I wasn't a part of the
13 physical arrest.

14 Q. Do you have any video footage to prove this?

15 A. I wish I did. But no, the answer to that is
16 no.

17 Q. No body camera, no video camera, correct?

18 A. That's correct. My truck was not equipped
19 with a camera and we didn't have body cameras. I
20 didn't have.

21 Q. Have you searched any of the businesses
22 around to see if they have camera footage?

23 A. Where he was arrested there are no
24 businesses. It was on the side of the state
25 highway.

1 Q. So basically it's your word against his
2 word?

3 A. It's the truth against a lie.

4 Q. We know that the sheriff is on audio telling
5 y'all to beat his ass?

6 A. That's right.

7 Q. Did the sheriff help your case by saying
8 that on the radio?

9 A. Not at all.

10 Q. Did you talk to the sheriff about saying
11 that?

12 A. I did actually.

13 Q. Okay. What did you say to him?

14 A. That was stupid and he agreed.

15 Q. Okay. Had he ever done anything like that
16 before to your knowledge?

17 A. No, sir. It took me by surprise.

18 Q. Okay. Do you think he was on drugs or
19 alcohol that day?

20 A. No, sir, I don't think he was on drugs or
21 alcohol. I think he let his emotions get the best
22 of him and had a lapse in judgment because it was
23 definitely out of character.

24 Q. Or do you think he let his racism get of out
25 of hand?

1 A. I don't believe the sheriff is racist at
2 all.

3 Q. Had he ever said anything like that about a
4 white person?

5 A. He's never said that about anyone at all
6 except for that sole incident on this day.

7 Q. The person happened to be black?

8 A. Mr. Marquis Tilman is a black male, yes,
9 sir.

10 Q. So the sheriff can control his emotions when
11 it comes to whites, Mexican but when it comes to a
12 black man he cannot control his emotions?

13 A. He has controlled his emotions around
14 several black people that were arrested. I don't
15 know how many years he has been in law enforcement,
16 I believe it's north of 30. So there's probably
17 countless suspects of all different colors that he
18 has controlled his emotions. I'm not taking up for
19 what he said because it's wrong.

20 Q. Okay.

21 A. He knows it's wrong. Him and I discussed it
22 and he admitted it, that what said was not right.

23 Q. Did he commit to not doing that again or
24 saying that again?

25 A. He said -- I told him, I said you know that

1 was stupid? Basically the conversation was yeah --
2 I mean, for lack of better terms I had a dumb ass
3 moment. So I could see the regret but that's my
4 personal opinion. You know, I'm not a psychologist
5 or anything like that.

6 Q. You know people outside of law enforcement
7 could hear what the sheriff said in the county?

8 A. Right. It was over the radio.

9 Q. So that was not a good reflection on the
10 county, was it?

11 A. It's terrible.

12 Q. Some people would say that's one case of
13 being stuck on stupid, to say something like that
14 over the radio?

15 A. I would say it was a huge lapse in judgment
16 and there was nothing right about it as far as the
17 verbiage he used.

18 Q. Did he use any other verbiage when
19 describing this black man?

20 A. No, sir.

21 Q. He didn't use the "N" word or anything?

22 A. No, sir.

23 Q. Have you ever heard him use the "N" word?

24 A. No, sir.

25 Q. Have you ever heard any of your colleagues

1 use the "N" word on the job?

2 A. No, sir.

3 Q. You think its' wrong to use the "N" word?

4 A. I do.

5 Q. Have all your answers been truthful?

6 A. Yes, sir.

7 Q. Do you believe that Mr. Marquis Tilman has a
8 personal vendetta against you?

9 A. I don't think we have enough history to
10 support what you would call a personal vendetta, but
11 I was commonly known in this county due to the fact
12 I was a narcotics agent. So maybe that's where he
13 got my name. I don't know. But I didn't have any
14 type of physical contact and that includes
15 handcuffing, walking him to the car or any -- I
16 mean, he was in custody before I exited my vehicle.

17 So I would have to ask him personally why he
18 used my name. Maybe Ben Ivy was a name that he
19 liked and picked out. I don't know. I couldn't
20 answer for him. I would like to know that answer
21 myself.

22 Q. We'll understand it better by and by. Do
23 you believe that?

24 A. Yes, sir.

25 MR. MOORE: I tender the witness.

1 MS. MALONE: I have no questions for this
2 witness.

3 (AND FURTHER DEPONENT SAITH NOT; SIGNATURE
4 NOT WAIVED.)

5 (WHEREUPON, THE DEPOSITION WAS CONCLUDED AT
6 12:43 P.M.)

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C E R T I F I C A T E

STATE OF MISSISSIPPI:

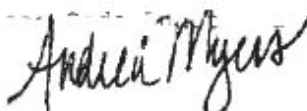
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I, ANDREA C. MYERS, CCR, Board Certified Court Reporter, in and for the State of Mississippi, do hereby certify that the above deposition was reported by me, and the transcript is a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome.

I further certify that I am duly licensed by the Mississippi Board of Court Reporters as a Licensed Court Reporter as evidenced by the CCR number and expiration date following my name below.

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CHANGES AND SIGNATURE
TO THE ORAL DEPOSITION OF

<WITNESS NAME>

Volume 1 of 1

<DATE>

PAGE	LINE	CHANGE	REASON
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4810408

1 I, , have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.
4

5 _____
<WITNESS NAME>

6 STATE OF _____)
7 COUNTY OF _____)

8 Before me, _____, on this
9 day personally appeared <WITNESS NAME>, known
10 to me (or proved to me under oath or through _____
11 (description of identity card or other document) to be
the person whose name is subscribed to the foregoing
instrument and acknowledged to me that they executed
the same for the purposes and consideration therein
expressed.

(Seal) Given under my hand and seal of office
this _____ day of _____, _____.

15 _____
Notary Public in and for the
State of _____
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1 jmalone@aabalegal.com

2 October 21, 2021

3 RE: Tilman, Marquis v. Clarke County, Et Al.

4 DEPOSITION OF: Benjamin Ivy (# 4810408)

5 The above-referenced witness transcript is
6 available for read and sign.

7 Within the applicable timeframe, the witness
8 should read the testimony to verify its accuracy. If
9 there are any changes, the witness should note those
10 on the attached Errata Sheet.

11 The witness should sign and notarize the
12 attached Errata pages and return to Veritext at
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15 the witness fails to do so within the time allotted,
16 a certified copy of the transcript may be used as if
17 signed.

18 Yours,

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[sir - threatened]

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Mississippi Rules of Civil Procedure

Rule 30

Depositions Upon Oral Examination

(e) Submission to Witness; Changes; Signing.

When the testimony is taken by stenographic means, or is recorded by other than stenographic means as provided in subsection (b)(4) of this rule, and if the transcription or recording thereof is to be used at any proceeding in the action, such transcription or recording shall be submitted to the witness for examination, unless such examination is waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the transcription or stated in a writing to accompany the recording, together with a statement of the reasons given by the witness for making them. Notice of such changes and reasons shall promptly be served upon all parties by the party taking the deposition. The transcription or recording shall then be affirmed in writing as correct by the witness, unless the parties by stipulation waive the affirmation. If the transcription or recording is not affirmed as correct by the witness within

thirty days of its submission to him, the reasons for the refusal shall be stated under penalty of perjury on the transcription or in a writing to accompany the recording by the party desiring to use such transcription or recording. The transcription or recording may then be used fully as though affirmed in writing by the witness, unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to affirm require rejection of the deposition in whole or in part.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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